

BOARD OF APPEALS PUBLIC HEARING – MAY 4, 2017

PUBLIC HEARING
BOARD OF ZONING APPEALS
May 4, 2017

The Austintown Township Board of Appeals held a Public Hearing on Thursday, May 4, 2017, at the Township Building, 82 Ohltown Road, Austintown, Ohio, for consideration of the following cases:

APPEAL CASE 2017-05-A- Broadview Acres Canine Resort; and
APPEAL CASE 2016-21-A-Continued-Watch Ur Paws.

The following Board members were in attendance:

Mr. Robert Satterlee - Chairman
Mr. Joe Koch - Vice-Chairman
Mr. Michael Beaudis
Mr. William Glaros
Mr. James Mahoney

Chairman Satterlee opened the public hearing at 7:00 P.M. The following testimony was given under oath or affirmation. Court reporter in attendance, complete transcript taken of the hearing.

APPEAL CASE 2017-21-A

Broadview Acres Canine Resort, 419 Salt Springs Road, Lordstown, Ohio, 44481, on behalf of property owner Baker Real Estate Limited, 1905 Twin Oaks Drive, Girard, Ohio, 44420, appeals from the decision of the Austintown Township Zoning Inspector and requests a conditional use permit from the terms of Article XI-Business B-2 District, Section 1102-Conditionally Permitted Uses, Paragraph No. 2 - Boarding Kennels and Catteries, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, to allow for occupancy of the proposed Broadview Acres Canine Resort at the property located at 231 South Canfield-Niles Road. Said property is further described as Lot No. 1, Hale & Schnurrenberger Plat, is located on the east side of the South Canfield-Niles Road right-of-way approximately 628 feet south of the South Canfield-Niles Road–Mahoning Avenue intersection; and is zoned as a Business B-2 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant’s letter of request into the case record, read a letter of permission from Sharma Baker allowing the applicant to represent the property, referenced a GIS site plan, a hand-drawn interior floor plan, a Broadview Acres brochure, the case mailing list prepared by the zoning office, and four plat maps of the property. Zoning Permit 45952 issued on May 17, 2005 allowing for construction of the building with accompanying floor plan and elevation drawings was also referenced.

BOARD OF APPEALS PUBLIC HEARING – MAY 4, 2017

Carrie DeCesare, 419 Salt Springs Road, Lordstown, Ohio, 44481, stated she wants to lease the building to reopen the dog kennel. She has been in business for ten years and wants to expand. Nothing needs to be done with the building to allow the business to open. Nothing will change with the existing structure.

Mr. Satterlee asked if the dogs would be inside the building at all times. Ms. DeCesares answered in the affirmative and stated there are no outdoor runs. The dogs will be taken outdoors into a fenced play yard for bathroom breaks and playtime which are short time periods for the dogs to run around. Playtime includes groups of dogs and sometimes they have pools for them if the dogs are social. Outdoor time is usually after breakfast and dinner. Dogs can also be taken out one at a time. The outdoor area was used previously for dog breaks.

Mr. Koch inquired about a pond. Ms. DeCesares advised the reference to the pools in the literature are kids pools. Zoning Inspector Crivelli advised there is a storm water retention pond outside the fenced area that is not part of the request.

Mr. Koch inquired about the hours of operation. Ms. DeCesares stated they open at 8:00 A.M. to 11:00A.M. Monday thru Friday and 3:00 P.M. to 5:30P.M. for pick-ups and drop-offs. Only the staff are there for long periods of time. Customer visits are short for drop-offs and pick-ups.

Mr. Koch asked about the qualification to become a certified vet tech. Ms. DeCesares advised schooling. Some of her employees have associate degrees in veterinarian assistance and others dog training courses with licenses and certificates

Mr. Satterlee asked if there were overnight stays. Ms. DeCesares stated they will do daycare and long-term boarding such as on weekends. Dogs can stay one night or up to a month based on customer need. Staffing arrives at 6:30 or 7:00 in the morning until noon. They come back after lunch to 6:00 or 7:00 P.M. The facility is closed for the evening. Everyone goes home and it starts over the next morning.

Mr. Beaudis inquired about animal emergencies when no one is working. Ms. DeCesares advised they use cameras that she monitors. She has never had any issues with her other facility. Over the years she has taken three dogs to the vet for illness. One was for old age, one an upset stomach, and one that was stung by a bee. She speculated she has housed over 70,000 dogs over ten years. Owners have to fill questioners out regarding the health of the dogs and they are always in contact with the owners.

Mr. Koch inquired about the size of her Lordstown facility. Ms. DeCesares stated is was larger with both indoor and outdoor runs and a larger play yard and a county setting. She described this facility as being more of an urban setting. She will keep the Lordstown facility open.

BOARD OF APPEALS PUBLIC HEARING – MAY 4, 2017

There was discussion of the history of the building and the abutting zoning districts. Zoning Inspector Crivelli advised the subject property is zoned as a Business B-2 District.

Sharma Baker, 1905 Twin Oaks, stated the kennel was started in 2005 and continued to 2012. Her husband died in 2011. She stated there were no complaints when the kennel was operated in the past. The property will be cleaned every day and there will be no odors. Mrs. Baker remembered coming before the Board for this same approval in 2005. Mr. Koch commented that it was a great use and she is fortunate to have nice people to run this business.

No one else in attendance to speak for the request.

Atty. Bouffard stated he would like to learn more about the staffing and if the township requires a certificate of insurance for an emergency. Mr. Satterlee reviewed the hours that were given. Atty. Bouffard observed there are 12 hours when there are no staff on-site. Mr. Satterlee stated there will be two full-time employees plus the owner. Atty. Bouffard inquired about insurance and if there will be any additional outdoor runs. Mr. Satterlee advised under testimony the applicant advised there is a small outdoor area with the possibility of a small pool. He stated there were no outdoor dog runs proposed.

Atty. Bouffard referenced the 2005 drawing and inquired about a care area at the south of the building with reference to small five kennels and asking if they are indoor or outdoor. He stated this area appears to be a change versus the applicant stating there will be no changes. Mrs. Baker advised nothing has changed and there are no kennels outside. Zoning Inspector Crivelli advised the building was set roughly five feet from the southerly property line.

Mr. Satterlee was satisfied with the staffing discussion with the applicant. Atty. Bouffard inquired about the terms of the lease. Ms. DeCesares stated she has a two million-dollar liability business insurance contract. She stated there are no plans for outdoor dog runs. Dogs have to be physically taken outside into the play yard by a staff member four or five times a day for short periods of time for bathroom breaks and to run in the yard for exercise. There are two play areas. The one on the southside is small and stoned and will not be used at all. The lease is for five years with no plans to purchase but does contain a renewal option. Ms. DeCesares monitors the dogs from home on her computer. She has done business this way for the past ten years with no problems. At night the dogs are tired and ready to go to sleep.

Mr. Satterlee asked how many dogs stay overnight. Ms. DeCesares stated it was seasonal and when they are full they are full. Customers trust and love them and know their dogs will be well taken care off. She has worked with military officials for long term dog stays. Ms. DeCesares stated vet clinics run similar for dogs who have to stay overnight. As of right now, customers cannot log in to the security system to view their dog. Ms. DeCesares stated there is no licensing in Ohio for kennel standards. She stated she follow guidelines that would be approved by states that have licensing requirements. It is

not cost effective to have 24-hour staffing. The animals are contained and they cannot escape or hurt themselves.

Atty. Bouffard inquired about permits from the Mahoning County Board of Health. Ms. DeCesares stated she is not aware of health department permits but Trumbull County has no requirements. She stated she understands she needs a permit from the fire department.

Mr. Glaros inquired as to the procedure if a dog becomes ill. Ms. DeCesares stated they would first contact the owner, then they go to the boarding questioner to see what vet the owner prefers, if that information is not available they would take the dog to the emergency vet clinic that is open 24 hours a day. She also stated there is a vet clinic operating in their front yard.

Atty. Rob Bouffard, 721 Boardman-Poland Road, Suite 201, introduced his clients Ed Reese, Rob Rupeka, and Ed Reese, Jr. He advised his clients own the seven-acre parcel zoned R-1 abutting the subject property. Briarfield Manor lies south and adjacent to the subject parcel. Although there are no current development plans the future use will most likely be skilled nursing, assisted living, and residential units. He compared the use to Shepard in Poland. He stated they are opposed to the granting of a conditional use permit due to potential noise problems and how that would interfere with his client's use of the property for senior citizens and the elderly who need skilled care. He also expressed concerns for health reasons. He stated the applicant's website lists cautions regarding kennel cough. He referenced kennel cough breakouts and the warning regarding airborne viruses and expressed concerns with unattended pets. He submitted Exhibit "A" Broadview Acres regarding kennel cough. He summarized his concerns being noise and health concerns and asked the board to address these concerns. He also stated there is no reliable method to keep dogs from barking.

Mr. Koch inquired about his concern with kennel cough and referenced the literature stating humans cannot catch kennel cough. Atty. Bouffard expressed concern with future residents who may have lung problems and referenced existing science that it is not transmittable to humans. He was appreciative that the Board would take a fresh look at this use considering it was ceased for a period of five years.

Mr. Satterlee asked if there were any animals allowed in the nursing facility. Atty. Bouffard deferred to his client. Mr. Reese stated any animal in the facility has to conform to state requirements for shots, etc. The state does not allow animals to walk around the nursing home. Mr. Koch observed kennel cough is a threat to dogs only. He also observed this is a conditional use permit subject to a review and if new science should indicate health concerns that can be reviewed by the Board at a later date. Zoning Inspector Crivelli advised although there is a three year review the applicant can be brought before the Board for non-compliance at any time.

Atty. Bouffard referenced a 1995 resolution regarding barking dogs. Zoning Inspector Crivelli advised that is enforced by the APD and any citation could be forwarded to

zoning for review by the Board. Mr. Koch observed that barking dogs could be more of a problem than kennel cough and that could be addressed in the future if complaints occur.

Atty. Bouffard stated that it has been 12 years since the original approval and the Lordstown site is in a rural area whereas this is an urban setting with other properties such as Five Guys who may be nuisanced by excessive barking and referenced the applicant's testimony that this is an urban setting. Atty. Bouffard observed that conditional use permits can be structured and suggested the following:

- 1) Reduction of the term of review from three years to six months or one year;
- 2) He asked the board to prohibit any other added play areas and prohibit any outdoor runs. Mr. Satterlee referenced that she testified that there would be no new outdoor dog runs and she stipulated the play area in her testimony. Any approval would be based on her testimony.
- 3) He asked for restrictions on the hours dogs would be outside in the play area and the number of dogs that are allowed outside at any one time. He referenced an employee being one on one with the dogs outside.

Ms. DeCesares stated the most dogs outside at one time would be five dogs such as five dogs from the same family. Mr. Satterlee asked if she had 20 dogs how many would be taken out at one time. Ms. DeCesares stated five dogs at one time can be the maximum. The time outside is left to the dog but it is usually 5 to 15 minutes. The dogs are taken outside every hour and a half. They advertise that the dogs are taken out multiple times in the morning and afternoon. Most of the dogs are house dogs and tend to go out for a bathroom break and then back inside. The Lordstown facility is very controlled and quiet environment. She is aware this is an urban area and will maintain a quiet and controlled facility.

Mr. Beaudis asked what would be the latest time the dogs would be outside on any given day. Ms. DeCesares stated 7:00 P.M. She maintains strict hours of operation for dropping off dogs to reduce stress on the dogs. Ms. DeCesares stated the building alarm was set off unintentionally today and the employees in the vet clinic did not hear it. The building is sound proofed. There were no previous complaints at this location from the previous dog kennel. Mr. Beaudis stated he could not hear the alarm outside the building.

Atty. Bouffard inquired about the cleaning and removal of dog feces and concern during evening hours when dogs are inside for 12 hours with no bathroom break. He also asked that the exterior south end not be used as a kennel. The south end was confirmed by Mr. Koch based on the applicant's testimony. Atty. Bouffard asked for a six-month trial period for the conditional use. Mr. Koch asked the client if the lease can be adjusted in terms of time periods. Mrs. Baker stated adjusting the lease time period would not be a problem. Atty. Bouffard followed up with a sub-leasing question. Zoning Inspector Crivelli stated the conditional use is user specific and the user is accountable based on the testimony presented. Mr. Satterlee advised car lots that change tenants have to go thru this same process. Mr. Satterlee complimented Mr. Reese on the quality of his facility and surmised there will be no problems based on the distance of the facility from the

BOARD OF APPEALS PUBLIC HEARING – MAY 4, 2017

nursing home and suggested future problems if they were to arise can be addressed by this process.

Mr. Reese expressed concerns of 15 to 20 to 30 dogs all coming out at one time for play time especially after being in a kennel for 12 hours and the fact that the business has only two employees. He stated they purchased the property for the continuance of their existing business. Ms. DeCesares stated there was room inside for playtime especially during rain storms. She stated there will never be 30 dogs outside at one time. Zoning Inspector Crivelli asked at any given time will there be more than five dogs outdoors. Ms. DeCesares stated she will have no more than five dogs and the play area is not big enough for more than five dogs. The outdoor time is basically where they can get exercise and bathroom breaks. There is room for one dog to exercise inside. The pool is a dollar general kids pool. Owners want to see their dogs have an opportunity to play in the pool.

Atty. Bouffard asked if there could be restrictions on outdoor play time during a proposed trial period. He also observed the dogs in Lordstown don't bark because they have a large outdoor area to roam. He emphasized the urban setting and proximity of other buildings in asking for the Board to establish a trial period. Mr. Satterlee stated most customers will want their dogs to have an exercise period. Mr. Koch disagreed with a trial period and suggested they are foreseeing problems before they exist. He observed Mr. Reese is very conscientious and if a problem were to arise one phone call to the applicant would probably correct a problem, if not the Board at that point can become involved. Mr. Koch stated the applicant knows what's best for her clients, otherwise, she would not be successful at it even given there are no state regulations similar to what Mr. Reese has to follow to operate his business. Mr. Koch stated he does not foresee problems at this location considering the quality of the applicant. If there are problems then they will be addressed in the future. There was some further discussion of the barking dog resolution adopted in 1995.

Mr. Reese observed the Board is comparing urban versus rural and this creates a concern for the future development of the property. Mr. Reese stated future development could be condos, independent living, or assisted living and the animals could cause a problem. He expressed difficulty of planning development for the future. Mr. Beaudis suggested the three-year review is adequate. Mr. Koch suggested buffers can be addressed in a PUD application. There was discussion of the original approval and Mr. Satterlee suggested as to a scenario wherein the previous kennel business may not have shut down and would still be operating at the time the abutting property was for sale. Atty. Bouffard asked for a one-year review period to start. Mr. Satterlee noted his concern.

Ms. DeCesare did not offer a rebuttal.

No one else in attendance to speak against the request.

The Board adjourned into executive session at 8:30 P.M.

The Board reconvened from executive session at 8:45 P.M.

Mr. Koch stated there is plenty of recourse in the future to deal with any problems and suggested a future PUD request may also address potential problems.

2017-05-A-Broadview Acres Canine Resort: Motion by Mr. Koch to approve the conditional use permit including all representations made by the applicant.

Seconded by Mr. Mahoney.

Roll call vote: Mr. Glaros - Yes; Mr. Mahoney – Yes; Mr. Koch – Yes; Mr. Beaudis – Yes; and Mr. Satterlee – Yes.

Zoning Inspector Crivelli advised the applicant she can occupy the building immediately and advised Atty. Bouffard he has 30 days to file an appeal of the decision in Mahoning County Common Pleas Court. Mr. Satterlee advised there is an avenue for review if an issue or problem should arise.

APPEAL CASE 2016-21-A-Continued & Revised

Watch Ur Paws, 1726 South Raccoon Road, Austintown, Ohio, 44515, on behalf of property owner Cera Management, LLC, 427 South Broad Street, Canfield, Ohio, 44406, appeals from the decision of the Austintown Township Zoning Inspector and requests a conditional use permit from the terms of Article XI-Business B-2 District, Section 1102-Conditionally Permitted Uses, Paragraph No. 2 - Boarding Kennels and Catteries, of the Austintown Township Zoning Ordinance, as amended through November 25, 2014, to allow for expansion of “Watch Ur Paws” into the tenant space located at 1724 South Raccoon Road. Said property is further described as Lot No. 2, Plaza West Plat No. 1, is located on the south side of the New Road right-of-way approximately 300 feet west of the South Raccoon Road-New Road intersection; and is zoned as a Business B-2 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant’s letter of request dated April 12, 2017 into the case record, read a letter of permission from property owner S. Samuel Cera, Jr. permitting the applicants to represent the property, referenced a hand drawn interior floor plan, the zoning confirmation letter for Appeal Case 2016-21-A, the conditional use permit, the approved minutes of the January 12, 2017 public hearing, the case mailing list prepared by the zoning office, and three plat maps of the property.

Mr. Satterlee stated the mailing list for case 2016-21-A will be incorporated into the case record.

Robin Stowe, 121 Belmont Avenue, Niles, Ohio, 44446, stated they want to expand the business. They have customers on a waiting list.

BOARD OF APPEALS PUBLIC HEARING – MAY 4, 2017

Mr. Koch inquired about the outdoor space. Ms. Stowe approached the Board to depict the outdoor area from the drawing. Dogs are taken out one at a time. There was discussion of fencing in the rear but Ms. Stowe did not want a fence. She suggested maybe a small outdoor kennel. There was a discussion of the alley behind the building. Mr. Stowe stated the only deliveries she sees is one individual from the bar, otherwise, the area behind the building is not used for delivery.

Mr. Beaudis inquired about staffing. Ms. Stowe stated it was her and Christine and they have a friend who helps out and they may hire one or two people.

Mr. Glaros inquired about the number of dogs they have now. Ms. Stowe stated they currently have 12 dogs a day.

Mr. Beaudis asked if she has had any problems since she has been open. Ms. Stowe stated she has one on one meet and greet with customers and observes dog play styles. Thus far there have been no problems.

Mr. Glaros inquired about rates. Ms. Stowe stated the rates per hour will stay the same for right now. The new space is 2,000 square feet. The current space is 800 to 900 square feet and they have 12 dogs. There was discussion of the interior doors. The small tenet space will be used as an entrance and for daycare for smaller dogs or dogs that are not playful. The larger side will be for more active dogs. They will keep 12 dogs on the original side and 30 in the new space. Zoning Inspector Crivelli advised there have been no complaints with the facility.

2016-21-A-Continued-Watch Ur Paws: Motion by Mr. Koch to approve the amendment to accommodate 42 dogs including all representations made by the applicant.

Seconded by Mr. Mahoney.

Roll call vote: Mr. Glaros - Yes; Mr. Mahoney – Yes; Mr. Koch – Yes; Mr. Beaudis – Yes; and Mr. Satterlee – Yes.

There being nothing further to come before the Board, the hearing was adjourned at 9:05 P.M.

AUSTINTOWN BOARD OF ZONING APPEALS

Darren L. Crivelli, Zoning Inspector, Austintown Township

APPROVED: _____
Bob Satterlee – Chairman – 2017
Joe Koch – Chairman - 2018

DATE: _____